FISCAL NOTE

Bill #: HB0125 **Title:** Revise time for calculation of late tax interest

Primary Sponsor: Lambert, C **Status:** Second Reading

Sponsor signature Date Chuck Swysgood, Budget Director Date

Fiscal Summary

	FY 2004 Difference	FY 2005 Difference
Expenditures:		
General Fund	$0	$63,545
Net Impact on General Fund Balance:	$0	($63,545)

- ☐ Significant Local Gov. Impact
- ☐ Included in the Executive Budget
- ☐ Dedicated Revenue Form Attached
- ☒ Technical Concerns
- ☒ Significant Long-Term Impacts
- ☐ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. Under current law, the state's uniform penalty and interest assessments for violations of tax provisions statute (MCA, 15-1-216) provides that interest on taxes not paid when due must be assessed at the rate of 12% a year, accrued at 1% a *month or fraction of a month* on the unpaid tax. It also provides that a person who fails to pay a tax when due must be assessed a late payment penalty of 1.5% a *month or fraction of a month* on the unpaid tax, with the penalty not to exceed 18% of the tax due. Under current interpretations of this statute, a taxpayer whose individual income tax liability is due April 15th is assessed two months' worth of penalty and interest if the actual payment is received on May 15th, as two fractions of two separate months(April and May) are assessed.
2. Under this bill this language is changed to provide that interest must be assessed at the rate of 12% a year, accrued at 1% for each *designated period or fraction of a designated period*, and penalty is assessed at the rate of 1.5% for each *designated period or fraction of a designated period*. "Designated period" is defined as the 1-month period that ends within each subsequent month on the day of the month that the tax was originally due. Under this language, the individual income taxpayer who pays on May 15 would be assessed just one month's worth of interest and penalty, rather than two months' worth.
3. This bill has no impact on the interest and penalty revenue generated by taxes whose statutory payment date is the last day of the month, as there is no difference between payment by *month* or payment by *designated period* for these types of taxes. Essentially, this bill would impact interest and penalty revenue for the individual income tax and the corporation license tax.
4. If all individual income and corporate taxpayers who pay after their due date paid their taxes within a 30-day period, then the effect of this bill would be to cut interest and penalty revenue from these two tax sources in half. However, only a fraction of taxpayers who pay their taxes after the due date pay within 30 days. Some taxpayers may take up to two or more years to ultimately pay their taxes.

5. Based on an analysis of current accounts receivable, including the number and size of accounts receivable, by age of account, it is estimated that this bill would reduce total interest and penalty payments for the individual income tax by 10% and the corporation license tax by 7% when fully implemented.
6. Based on fiscal year 2002 interest and penalty revenue of $5,118,902 for individual income taxes, this bill would reduce interest and penalty revenue from the individual income tax by $511,890 annually ($5,118,902 X 10% = $511,890). Based on fiscal year 2002 interest and penalty revenue of $1,411,902 for corporation license taxes, this bill would reduce interest and penalty revenue from the corporate license tax by $98,833 annually ($1,411,902 X 7% = $98,833). The combined annual impact is a reduction in interest and penalty revenue of $610,723.
7. This bill is effective July 1, 2005 and applies to tax years beginning after December 31, 2004. The bill would have no impact on revenues in fiscal 2004 and a *de minimis* impact in fiscal *2005 (see Techinal Notes*).
8. The Department would incur additional administrative expenses under this bill to modify computer systems (POINTS) to properly calculate the interest and penalty due on accounts. Contracted services of approximately 480 hours to identify each place in the system where interest is calculated and make the required coding changes and test the results, and to create a new process for interest and penalty calculations would be required. These additional administrative costs total $63,545 in fiscal 2005 only.

FISCAL IMPACT:	FY 2004 Difference	FY 2005 Difference
Expenditures:		
Contracted Services	$0	$62,697
Operating Expenses	$0	$848
TOTAL	$0	$63,545
Funding of Expenditures:		
General Fund (01)	$0	$63,545
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	$0	$(63,545)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
No impact.

LONG-RANGE IMPACTS:
Beginning with fiscal year 2006, general fund revenue would be reduced by approximately $610,000 annually under this bill.

TECHNICAL NOTES:
1. The applicability section of the second reading provides that "This act applies to tax years beginning after December 31, 2004. This wording is ambiguous and could be interpreted in at least two ways. First, it could be interpreted to mean that the act applies to any payment of interest or penalty that occurs after December 31, 2004. Second, it could be interpreted to mean that the act applies only to tax liabilities and payments associated with tax years that begin after December 31, 2004. This fiscal note makes the latter assumption, that the act applies to tax liabilities and payments associated with tax years beginning after December 31, 2004. In order to ensure application of the law in this manner, the language in Section 4 should be amended to more accurately reflect this precise interpretation.